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**JUN 24 2004**

**OFFICE OF PETITIONS**

In re Application of  
Burton et al. : DECISION ON APPLICATION  
Application No. 10/072,681 : FOR PATENT TERM ADJUSTMENT  
Filed: February 8, 2002 :  
Attorney Docket No. GENENT.037C3 :

This decision is in response to the "PETITION TO CORRECT PATENT TERM ADJUSTMENT HISTORY UNDER 37 C.F.R. § 1.705(b)," filed February 3, 2004.<sup>1</sup> Applicant requests that the patent term adjustment (PTA) history in Office records be corrected from two hundred thirty-two (232) days of applicant delay to eighty-nine (89) days.

The petition for correction of the PTA history is **GRANTED**. The determination of PTA at the time of the mailing of the Notice of Allowance is **zero (0) days, including eighty-nine (89) days of applicant delay**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is **zero (0) days, including eighty-nine (89) days of applicant delay**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

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<sup>1</sup> This application for patent term adjustment was timely filed, as it was filed after the mailing of the Notice of Allowance and before payment of the issue fee.

On December 3, 2003, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is zero (0) days, including two hundred thirty-two (232) days of applicant delay.

The Office initially determined a patent term adjustment of zero (0) days, including applicant delays of eighty-nine (89) and one hundred forty-three (143) days, both pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The applicant delay of 89 days has been reviewed and found to be correct. The applicant delay of 143 days is at issue.

The applicant delay of 143 days has been found to be incorrect. The PTO mailed a final Office action on August 19, 2003. In response, applicants filed an amendment and a terminal disclaimer on October 17, 2003, within the three month period provided for in 37 C.F.R. § 1.704(b). Accordingly, no applicant delay should have been assessed.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **zero (0) days, including 89 days of applicant delay.**

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e).

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (703) 305-0272.

*Kery Ferriter  
for*

Karin Ferriter  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of Deputy Commissioner  
for Patent Examination Policy

Enclosure: Copy of adjusted PAIR calculation